

REMARKS

I. INTRODUCTION

The Office Action mailed on March 15, 2006 and the references cited therein have been carefully studied and, in view of the foregoing amendments and the following remarks, reconsideration and allowance of this application are most respectfully requested. Claims 1-70 are currently pending in the present application, and claims 1-70 have been rejected. By the current amendment, the specification has been amended, claims 1, 2, 22, 23, 35, 36, 39, 50, 51, 55, 57, and 58 have been amended. It is believed that no new matter has been added by the current amendment. Applicants respectfully submit that the pending claims are now in condition for allowance.

II. REJECTIONS UNDER 35 U.S.C. § 112

Claims 1-12, 17, 22-46, 51, and 56-70 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

Claims 1, 2, 22, 23, 35, 36, 57, and 58 have been amended to clarify the original claims. Claims 3-12, 17, 24-34, 37-46, 51, 56, 59-70 ultimately depend from the currently amended claims. It is believed that no new matter has been added by the current amendment.

Thus, Applicants respectfully submit that the rejections under 35 U.S.C. § 112, second paragraph, have been overcome and should therefore be withdrawn.

III. REJECTIONS UNDER 35 U.S.C. § 102

Claims 1, 2, 22, 23, 35, 36, 56-58, and 70 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Takiguchi et al (WO 03/00661) or under 35 U.S.C. § 102(e) as being anticipated by Takiguchi et al. (US 2003/0235712 A1). Specifically, the Examiner

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believes that Takiguchi's compound nos. 34, 134, 317, and 367 meet the limitations of the compound defined by present claims 1, 2, 22, and 23.

To anticipate a claim, the reference must disclose each and every element of the claimed invention. *Verdergaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987). Applicants respectfully submit that WO 03/00661 and US 2003/0235712 A1 do not disclose each and every element of the currently amended claims.

In Takiguchi's compound nos. 34, 134, 317, and 367 the phenyl and pyridine rings of the phenylpyridine are bridged by $-\text{CR}_2-\text{CR}_2-$. By the current amendment, claims 1, 2, 22, 23, 35, 36, 57, and 58 have been amended such that R3' and R6 are not linked by $-\text{CR}_2-\text{CR}_2-$. Applicants respectfully submit that WO 03/00661 and US 2003/0235712 A1 do not anticipate claims 1, 2, 22, 23, 35, 36, 57, and 58. Claims 56, and 70 which ultimately depend from currently amended claims, are also not anticipated by the Takiguchi references.

Claims 1, 2, 6, 7, 22, 23, 27, 28, 35, 36, 40, 41, 56-58, 62, 63, and 70 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Brown et al. (US 2004/0086743 A1). Specifically, the Examiner believes that the 16th formula shown in Figure 6 of Brown et al.'s published application is a ligand within the scope of the rejected claims. In the ligand disclosed in Brown et al., the phenyl and pyridine rings of the phenylpyridine are bridged by $-\text{CR}_2=\text{CR}_2-$. By the current amendment, claims 1, 2, 22, 23, 35, 36, 57, and 58 have been amended such that R3' and R6 are not linked by $-\text{CR}_2=\text{CR}_2-$. Applicants respectfully submit that Brown et al. does not anticipate claims 1, 2, 22, 23, 35, 36, 57, and 58. Claims 6, 7, 27, 28, 40, 41, 56, 62, 63, and 70 which ultimately depend from currently amended claims, are also not anticipated by the Brown et al.

Applicants respectfully submit that the rejections under 35 U.S.C. § 102 have been overcome and should therefore be withdrawn.

IV. REJECTIONS UNDER 35 U.S.C. § 103

Claims 1, 2, 6, 7, 22, 23, 27, 28, 35, 36, 40, 41, 56-58, 62, 63, and 70 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Takiguchi et al (WO 03/00661) or Takiguchi et al. (US 2003/0235712 A1) (collectively "Takiguchi"). Specifically, the Examiner believes that it would be *prima facie* obvious to one of ordinary skill in the art to substitute one of Takiguchi's formulae Ph₂, Ph₃, Np₃/Npc, Np₄, Pi₂ or Pi₃ for Tn₅ in Takiguchi's compound nos. 34, 134, 317 and 367 and that one would expect the resulting compound to be luminescent.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), not only must the prior art teach or suggest each element of the claim, but the prior art must also suggest combining the elements in the manner contemplated by the claim. *See Northern Telecom, Inc. v. Datapoint Corp.*, 908 F. 2d 931, 934 (Fed. Cir. 1990), *cert. denied* 111 S.Ct. 296 (1990); *In re Bond*, 910 F. 2d 831, 834 (Fed. Cir. 1990). The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *See* M.P.E.P. §2142. To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. *See* M.P.E.P. §2143. Applicants respectfully submit that a *prima facie* case of obviousness has not been established in regard to the currently pending claims.

Applicants' compounds include a substituent at the R₃' and the R₅ positions. Substitution at these positions have been shown to increase device lifetime, as indicated in paragraph [0082] and the table on page 39, which shows the lifetimes of the devices with compounds of this invention (Example 5, 6, and 7) and similar prior art compounds without the substitutions. In fact, substitutions in both the R₃' and the R₅ positions show further improvement in the lifetime of the devices as compared to substitution for only the R₃' or the R₅ position (see para. [0082]). As the Examiner has recognized, Takiguchi does not disclose

any specific examples of compounds within the rejected claims, and Applicants submit that Takiguchi does not teach or suggest the aforementioned combination nor the superior results obtained for the device lifetime.

Claims 1-4, 6-25, 27-38, 40-60, and 62-70 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown et al. (US 2004/0086743). The Examiner believes that Brown et al. anticipates some compounds within the scope of the present claims and suggest others. Specifically, the Examiner cites the 16th formula in Brown's Figure 16. As previously discussed, the claims have been amended such that R3' and R6 are not linked by $-\text{CR}_2-\text{CR}_2-$ or $-\text{CR}_2=\text{CR}_2-$. The Examiner also believes that one of ordinary skill in the art at the time of the invention would have reasonably expected that compounds having ligands similar to Brown's ligands of the 1st, 18th, or 19th formulae in Figure 6 would be emissive. The Examiner also adds that Brown teaches that the ring A may be substituted with an alkyl group.

As discussed above, Applicants' compounds include a substituent at the R₃' and R₅ positions, and these compounds have shown superior results as compared to comparable examples (see para. [0082] and table on page 39) for the device lifetime.

The Examiner has also rejected claims 1, 2, 22, 23, 35, 36, 56-58, and 70 as being unpatentable over Kamatani et al. (US 2003/0059646 A1). For the reasons discussed in the preceding paragraph, Applicants submit that it would not have been *prima facie* obvious to make the compounds and devices of this invention.

For all these reasons, Applicants respectfully submit that the rejections under 35 U.S.C. § 103 have been overcome and should therefore be withdrawn.

V. NON-STATUTORY OBVIOUSNESS-TYPE DOUBLE PATENTING

Claims 1, 2, 6, 7, 22, 23, 27, 28, 35, 36, 40, 41, 56-58, 62, 63, and 70 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 16, 20, 35, and 39-41 of copending Application No.

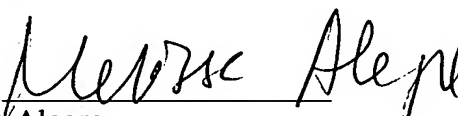
11/002, 188. As discussed above, Applicants' compounds include a substituent at both the R₃' and R₅ positions. Applicants submit that the superior lifetime results obtained from devices comprising these compounds make this invention patentably distinct from the copending application. Applicants respectfully submit that the provisional rejections on the ground of nonstatutory obviousness-type double patenting have been overcome and should therefore be withdrawn.

VI. CONCLUSION

Applicants respectfully submit that the pending claims are now in condition for allowance and request that such action be taken. If for any reason the Examiner believes that prosecution of this application would be advanced by contact with the Applicants' attorney, the Examiner is invited to contact the undersigned at the telephone number given below.

Respectfully submitted,
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